

SENATE BILL 2261

By Yager

AN ACT to amend Tennessee Code Annotated, Title 57, Chapter 4 and Title 57, Chapter 3, relative to server and employee permits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-3-703, is amended by deleting the section in its entirety and by substituting instead the following:

57-3-703.

(a) Any individual may be eligible for an employee permit by completing an application for such a permit on the forms provided by the commission. An applicant for an employee permit must demonstrate to the commission that the applicant is at least eighteen (18) years of age and:

(1) Other than for a crime described in subdivision (a)(2), has not been convicted of a felony within the previous four (4) years;

(2) Has not been convicted of any crime involving the sale or distribution of alcohol beverages or beer, schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

(3) Has not had an employee permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and

(4) Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101

or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivisions (a)(1)-(4), but is otherwise eligible for a permit, then the applicant's application shall be initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivisions (a)(1)-(4).

(c)

(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application's denial will be final and the applicant may not reapply for an employee permit until the relevant time period described in subdivisions (a)(1)-(4) has expired. If a person applies for an employee permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application at a hearing held pursuant to subsection (b), then the application's denial will be final and the applicant may not reapply for an employee permit or apply for a server permit pursuant § 57-3-704 until the relevant time period described in subdivision (a)(1)-(4) has expired. If a person applies for an employee or server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-704(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(1) or (a)(2) after being issued an employee permit pursuant to this section, the commission may institute proceedings to revoke the person's employee permit pursuant to § 57-3-214;

provided, that the administrative law judge or hearing officer may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, refuse to revoke the person's employee permit, notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(1) or (a)(2). If the administrative law judge, hearing officer, or commission revokes an employee permit pursuant to this subsection (d), then the applicant may not reapply for an employee permit or apply for an server permit pursuant to § 57-3-704 until the relevant time period described in subdivision (a)(1) or (a)(2) has expired. If a person applies for an employee or server permit in violation of this subsection (d), then such application shall be denied and subsection (b) or § 57-3-704(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer the provisions of this section pursuant to the Uniform Administrative Procedures Act.

SECTION 2. Tennessee Code Annotated, Section 57-3-704, is amended by deleting the section in its entirety and by substituting instead the following:

57-3-704.

(a) Any individual may be eligible for a server permit by completing an application for such a permit on the forms provided by the commission. An applicant for a server permit must demonstrate to the commission that the applicant meets the following requirements:

(1) Within one (1) year prior to the submission of the application the applicant has successfully completed a program of alcohol awareness training for persons involved in the direct service of alcohol, wine or beer by an entity certified by the commission to have an adequate training curriculum for alcohol awareness. If, in the determination of the commission, a state other than

Tennessee is deemed to have an adequate program of alcohol awareness training, then the successful completion of such training in that state within one (1) year prior to the submission of an application to the commission for a server permit shall satisfy the requirement of alcohol awareness training;

(2) The applicant is at least eighteen (18) years of age; and

(3) The applicant:

(A) Has not been convicted of a felony, other than for a crime described in subdivision (a)(3)(B), within the previous four (4) years;

(B) Has not been convicted of any crime relating to the sale or dispensing of alcoholic beverages or beer, schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

(C) Has not had a server permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and

(D) Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101 or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivision (a)(3), but is otherwise eligible for a server permit, then the applicant's application shall be initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or

hearing officer deems relevant to the matter and may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivision (a)(3).

(c)

(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application's denial will be final and the applicant may not reapply for a server permit until the relevant time period described in subdivision (a)(3) has expired. If a person applies for a server permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application pursuant to subsection (b), then application's denial will be final and the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3) has expired. If a person applies for an employee or server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B) after being issued a server permit pursuant to this section, the commission may institute proceedings to revoke the person's server permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge's or hearing officer's judgment the principles of equity require, refuse to revoke the person's server permit, notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B). If the administrative law judge, hearing officer, or commission revokes a server permit pursuant to this subsection

(d), then the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3)(A) or (a)(3)(B) has expired. If a person applies for an employee or server permit in violation of this subsection (d), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer the provisions of this section pursuant to the Uniform Administrative Procedures Act.

SECTION 3. Tennessee Code Annotated, Section 57-3-207, is amended by adding the following as a new subsection (k) and by redesignating the current subsection (k) and each subsequent subsection accordingly:

(k) No winery shall employ any person in the serving of wine samples who does not possess a server permit from the commission. It is made the duty of the licensee to see that each person dispensing or serving wine samples in the winery possesses such a permit, which permit must be on the person of such employee or on the premises of the winery and subject to inspection by the commission or its duly authorized agent when the employee is engaged in the performance of that employee's duties for the licensee.

SECTION 4. Tennessee Code Annotated, Section 57-3-702, is amended by deleting the language “§ 57-4-204(h)” and by substituting instead the language “§§ 57-4-204(h) and 57-3-207”.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect on July 1, 2014, the public welfare requiring it.